

## REMARKS

In the Office Action mailed on October 4, 2004, claims 1, 2, 6 and 8 were rejected under 35 U.S.C. 102(e) as being anticipated by Parker (U.S. Patent No. 6,603,755). This rejection is respectively traversed.

In accordance with the foregoing, claims 1, 2, 6 and 8 are amended.

Claims 1, 2, 6 and 8 are pending in the subject application, of which claims 1, 2 and 6 are independent.

Parker discloses a method of allowing multiple communication modes to be surveyed by a multimode mobile terminal for the purpose of locating a suitable communication service provider (see column 7, lines 5-40). Further, in FIG. 7, Parker discloses "a service selection program" selects a primary communication mode to use for establishing service. That is, the service selection program uses a table in which communication modes are assigned a rank from one to n (see FIG. 8), thereby allowing the multimode mobile terminal to update the communication mode ranking to adapt to changing conditions.

Further, Parker discloses determining a communication mode based on a rank of service providers (step 96 of FIG. 7).

Therefore, the Applicant respectfully submits that Parker fails to disclose "measuring a communication performance between a plurality of communication devices connected to a network, based on each of the communication modes under a plurality of communication conditions," as recited in amended claim 1.

Parker also fails to discuss those limitations recited in claims 2 and 6 which are similar to the limitations as recited in claim 1.

In addition, claim 8 includes patentably distinguishable features of its own. For example, claim 8 recites "said performance measuring module measures the communication performance...with other communications device if not stored with the condition-based optimum communication mode in communications with said other communications device...".

Withdrawal of the foregoing rejections is respectfully requested.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.


Serial No. 09/501,716

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Respectfully submitted,

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